

By: Representative McBride

To: Appropriations

HOUSE BILL NO. 577

1 AN ACT TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
3 WHO SERVED IN THE COMMISSIONED CORPS OF THE UNITED STATES PUBLIC  
4 HEALTH SERVICE SHALL RECEIVE CREDITABLE SERVICE IN THE SYSTEM FOR  
5 THAT SERVICE REGARDLESS OF WHEN THE SERVICE OCCURRED; AND FOR  
6 RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** Section 25-11-109, Mississippi Code of 1972, is  
9 amended as follows:

10 25-11-109. (1) Under such rules and regulations as the  
11 board of trustees shall adopt, each person who becomes a member of  
12 this retirement system, as provided in Section 25-11-105, on or  
13 prior to July 1, 1953, or who becomes a member and contributes to  
14 the system for a minimum period of four (4) years, shall receive  
15 credit for all state service rendered before February 1, 1953. To  
16 receive such credit, such member shall file a detailed statement  
17 of all services as an employee rendered by him in the state  
18 service before February 1, 1953. For any member who joined the  
19 system after July 1, 1953, any creditable service for which the  
20 member is not required to make contributions shall not be credited  
21 to the member until the member has contributed to the system for a  
22 minimum period of at least four (4) years.

23 (2) In the computation of membership service or prior  
24 service under the provisions of this article, the total months of  
25 accumulative service during any fiscal year shall be calculated in  
26 accordance with the schedule as follows: ten (10) or more months  
27 of creditable service during any fiscal year shall constitute a  
28 year of creditable service; seven (7) months to nine (9) months  
29 inclusive, three-quarters (3/4) of a year of creditable service;

30 four (4) months to six (6) months inclusive, one-half-year of  
31 creditable service; one (1) month to three (3) months inclusive,  
32 one-quarter (1/4) of a year of creditable service. In no case  
33 shall credit be allowed for any period of absence without  
34 compensation except for disability while in receipt of a  
35 disability retirement allowance, nor shall less than fifteen (15)  
36 days of service in any month, or service less than the equivalent  
37 of one-half (1/2) of the normal working load for the position and  
38 less than one-half (1/2) of the normal compensation for the  
39 position in any month, constitute a month of creditable service,  
40 nor shall more than one (1) year of service be creditable for all  
41 services rendered in any one (1) fiscal year; however, for a  
42 school employee, substantial completion of the legal school term  
43 when and where the service was rendered shall constitute a year of  
44 service credit for both prior service and membership service. Any  
45 state or local elected official shall be deemed a full-time  
46 employee for the purpose of creditable service for prior service  
47 or membership service. However, an appointed or elected official  
48 compensated on a per diem basis only shall not be allowed  
49 creditable service for terms of office.

50 In the computation of any retirement allowance or any annuity  
51 or benefits provided in this article, any fractional period of  
52 service of less than one (1) year shall be taken into account and  
53 a proportionate amount of such retirement allowance, annuity or  
54 benefit shall be granted for any such fractional period of  
55 service.

56 In the computation of unused leave for creditable service  
57 authorized in Section 25-11-103, the following shall govern:  
58 twenty-one (21) days of unused leave shall constitute one (1)  
59 month of creditable service and in no case shall credit be allowed  
60 for any period of unused leave of less than fifteen (15) days.  
61 The number of months of unused leave shall determine the number of  
62 quarters or years of creditable service in accordance with the

63 above schedule for membership and prior service. In order for the  
64 member to receive creditable service for the number of days of  
65 unused leave, the system must receive certification from the  
66 governing authority.

67 For the purpose of this subsection, for members of the system  
68 who are elected officers and who retire on or after July 1, 1987,  
69 the following shall govern:

70 (a) For service prior to July 1, 1984, the members  
71 shall receive credit for leave (combined personal and major  
72 medical) for service as an elected official prior to that date at  
73 the rate of thirty (30) days per year.

74 (b) For service on and after July 1, 1984, the member  
75 shall receive credit for personal and major medical leave  
76 beginning July 1, 1984, at the rates authorized in Sections  
77 25-3-93 and 25-3-95, computed as a full-time employee.

78 (3) Subject to the above restrictions and to such other  
79 rules and regulations as the board may adopt, the board shall  
80 verify, as soon as practicable after the filing of such statements  
81 of service, the services therein claimed.

82 (4) Upon verification of the statement of prior service, the  
83 board shall issue a prior service certificate certifying to each  
84 member the length of prior service for which credit shall have  
85 been allowed on the basis of his statement of service. So long as  
86 membership continues, a prior service certificate shall be final  
87 and conclusive for retirement purposes as to such service,  
88 provided that any member may within five (5) years from the date  
89 of issuance or modification of such certificate request the board  
90 of trustees to modify or correct his prior service certificate.  
91 Any modification or correction authorized shall only apply  
92 prospectively.

93 When membership ceases, such prior service certificates shall  
94 become void. Should the employee again become a member, he shall  
95 enter the system as an employee not entitled to prior service

96 credit except as provided in Sections 25-11-105(I), 25-11-113 and  
97 25-11-117.

98 (5) Creditable service at retirement, on which the  
99 retirement allowance of a member shall be based, shall consist of  
100 the membership service rendered by him since he last became a  
101 member, and also, if he has a prior service certificate which is  
102 in full force and effect, the amount of the service certified on  
103 his prior service certificate.

104 (6) Any member who served on active duty in the Armed Forces  
105 of the United States, who served in the Commissioned Corps of the  
106 United States Public Health Service, or who served in maritime  
107 service during periods of hostility in World War II, shall be  
108 entitled to creditable service at no cost for his service on  
109 active duty in the Armed Forces, service in the Commissioned Corps  
110 of the United States Public Health Service, or service in that  
111 maritime service, provided that he entered state service after his  
112 discharge from the Armed Forces, completion of service in the  
113 Commissioned Corps of the United States Public Health Service, or  
114 completion of that maritime service. The maximum period for that  
115 creditable service for all \* \* \* service covered by this  
116 subsection (6) shall not exceed four (4) years, unless positive  
117 proof can be furnished by the person that he was retained in the  
118 Armed Forces during World War II or in maritime service during  
119 World War II by causes beyond his control and without opportunity  
120 of discharge. The member shall furnish proof satisfactory to the  
121 board of trustees of certification of military service or maritime  
122 service records showing dates of entrance into active duty service  
123 and the date of discharge. From and after July 1, 1993, no  
124 creditable service shall be granted for any military service or  
125 maritime service to a member who qualifies for a retirement  
126 allowance in another public retirement system administered by the  
127 Board of Trustees of the Public Employees' Retirement System based  
128 in whole or in part on that military or maritime service. In no

129 case shall the member receive creditable service if the member  
130 received a dishonorable discharge from the Armed Forces of the  
131 United States.

132 (7) (a) Any member of the Public Employees' Retirement  
133 System whose membership service is interrupted as a result of  
134 qualified military service within the meaning of Section 414(u)(5)  
135 of the Internal Revenue Code, and who has received the maximum  
136 service credit available under subsection (6) of this section,  
137 shall receive creditable service for the period of qualified  
138 military service that does not qualify as creditable service under  
139 subsection (6) of this section upon reentering membership service  
140 in an amount not to exceed five (5) years if:

141 (i) The member pays the contributions he would  
142 have made to the retirement system if he had remained in  
143 membership service for the period of qualified military service  
144 based upon his salary at the time his membership service was  
145 interrupted;

146 (ii) The member returns to membership service  
147 within ninety (90) days of the end of his qualified military  
148 service; and

149 (iii) The employer at the time the member's  
150 service was interrupted and to which employment the member returns  
151 pays the contributions it would have made into the retirement  
152 system for such period based on the member's salary at the time  
153 the service was interrupted.

154 (b) The payments required to be made in paragraph  
155 (a)(i) of this subsection may be made over a period beginning with  
156 the date of return to membership service and not exceeding three  
157 (3) times the member's qualified military service; however, in no  
158 event shall such period exceed five (5) years.

159 (c) The member shall furnish proof satisfactory to the  
160 board of trustees of certification of military service showing  
161 dates of entrance into qualified service and the date of discharge

162 as well as proof that the member has returned to active employment  
163 within the time specified.

164 (8) Any member of the Public Employees' Retirement System  
165 who has at least four (4) years of membership service credit shall  
166 be entitled to receive a maximum of five (5) years creditable  
167 service for service rendered in another state as a public employee  
168 of such other state, or a political subdivision, public education  
169 system or other governmental instrumentality thereof, or service  
170 rendered as a teacher in American overseas dependent schools  
171 conducted by the Armed Forces of the United States for children of  
172 citizens of the United States residing in areas outside the  
173 continental United States, provided that:

174 (a) The member shall furnish proof satisfactory to the  
175 board of trustees of certification of such services from the  
176 state, public education system, political subdivision or  
177 retirement system of the state where the services were performed  
178 or the governing entity of the American overseas dependent school  
179 where the services were performed; and

180 (b) The member is not receiving or will not be entitled  
181 to receive from the public retirement system of the other state or  
182 from any other retirement plan, including optional retirement  
183 plans, sponsored by the employer, a retirement allowance including  
184 such services; and

185 (c) The member shall pay to the retirement system on  
186 the date he or she is eligible for credit for such out-of-state  
187 service or at any time thereafter prior to date of retirement the  
188 actuarial cost as determined by the actuary for each year of  
189 out-of-state creditable service. The provisions of this  
190 subsection are subject to the limitations of Section 415 of the  
191 Internal Revenue Code and regulations promulgated thereunder.

192 (9) Any member of the Public Employees' Retirement System  
193 who has at least four (4) years of membership service credit and  
194 who receives, or has received, professional leave without

195 compensation for professional purposes directly related to the  
196 employment in state service shall receive creditable service for  
197 the period of professional leave without compensation provided:

198           (a) The professional leave is performed with a public  
199 institution or public agency of this state, or another state or  
200 federal agency;

201           (b) The employer approves the professional leave  
202 showing the reason for granting the leave and makes a  
203 determination that the professional leave will benefit the  
204 employee and employer;

205           (c) Such professional leave shall not exceed two (2)  
206 years during any ten-year period of state service;

207           (d) The employee shall serve the employer on a  
208 full-time basis for a period of time equivalent to the  
209 professional leave period granted immediately following the  
210 termination of the leave period;

211           (e) The contributing member shall pay to the retirement  
212 system the actuarial cost as determined by the actuary for each  
213 year of professional leave. The provisions of this subsection are  
214 subject to the regulations of the Internal Revenue Code  
215 limitations;

216           (f) Such other rules and regulations consistent  
217 herewith as the board may adopt and in case of question, the board  
218 shall have final power to decide the questions.

219           Any actively contributing member participating in the School  
220 Administrator Sabbatical Program established in Section 37-9-77  
221 shall qualify for continued participation under this subsection  
222 (9).

223           (10) Any member of the Public Employees' Retirement System  
224 who has at least four (4) years of credited membership service  
225 shall be entitled to receive a maximum of ten (10) years  
226 creditable service for:

227           (a) Any service rendered as an employee of any  
228 political subdivision of this state, or any instrumentality  
229 thereof, which does not participate in the Public Employees'  
230 Retirement System; or

231           (b) Any service rendered as an employee of any  
232 political subdivision of this state, or any instrumentality  
233 thereof, which participates in the Public Employees' Retirement  
234 System but did not elect retroactive coverage; or

235           (c) Any service rendered as an employee of any  
236 political subdivision of this state, or any instrumentality  
237 thereof, for which coverage of the employee's position was or is  
238 excluded; provided that the member pays into the retirement system  
239 the actuarial cost as determined by the actuary for each year, or  
240 portion thereof, of such service. Payment for such service may be  
241 made in increments of one-quarter-year of creditable service.  
242 After a member has made full payment to the retirement system for  
243 all or any part of such service, the member shall receive  
244 creditable service for the period of such service for which full  
245 payment has been made to the retirement system.

246           **SECTION 2.** This act shall take effect and be in force from  
247 and after July 1, 2005.